



COMMUNITY DEVELOPMENT DEPARTMENT

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PLANNING COMMISSION MEETING MINUTES

REGULAR MEETING

OCTOBER 28, 2008

PRESENT: Acevedo, Davenport, Escobar, Lyle, Mueller

ABSENT: Koepp-Baker

LATE: Tanda, who arrived at 7:03 PM and was seated on the dais

STAFF: Planning Manager (PM) Rowe, Senior Civil Engineer (SCE) Creer, Senior Planner (SP) Tolentino, Assistant Planner (AP) Phillips, and Minutes Clerk Johnson.

Vice-Chair Davenport called the meeting to order at 7:00 p.m., inviting all present to join in pledge of allegiance to the U.S. flag.

DECLARATION OF POSTING OF AGENDA

Minutes Clerk Johnson certified that the meeting's agenda was duly noticed and posted in accordance with Government Code Section 54954.2.

OPPORTUNITY FOR PUBLIC COMMENT

Vice-Chair Davenport opened the floor to public comment for matters not appearing on the agenda. With no members of the audience indicating a wish to address items not appearing on the agenda, the public hearing was closed.

CONSENT CALENDAR:

MINUTES:

OCTOBER 14,
2008

COMMISSIONERS MUELLER/ESCOBAR MOTIONED TO APPROVE THE OCTOBER 14, 2008 MINUTES WITH THE FOLLOWING REVISIONS:

Page 3, line 2 (add) ...and *additional lighting*...

Page 3, paragraph 4 (clarify): Commissioner Mueller noted that regarding the construction of the new courthouse, "~~On the safe side, we're three years out and it could be longer. I think we should put in minimal lighting on that third row.~~" *Commissioner Mueller emphasized that third row lighting would be needed for at least three years.*

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Page 3, paragraph 10, line 1 (delete word): ... prefers a width of ~~with~~ 9.5 feet for the parking spaces...

Page 3, paragraph 10, line 4: ...‘just too ~~small~~ **narrow and would only yield three additional spaces**’.

Page 5, 1st bullet/ bottom set (clarify): ...~~allotments automatic available~~ **additional ‘automatic’ allotments** for 2010 - 2011

Page 6, paragraph 3, line 4 (add): Planning Commission accept the **report** as the Commission is charged with monitoring RDCS activity.

THE MOTION PASSED (5-0-1-1) WITH THE FOLLOWING VOTE: AYES: ACEVEDO, DAVENPORT, ESCOBAR, LYLE, MUELLER; NOES: NONE; ABSTAIN: TANDA; ABSENT: KOEPP-BAKER.

PUBLIC HEARINGS:

1) DAA-05-13C/ DSA-07-08A: JARVIS-SOUTH VALLEY DEVELOPERS

A request for approval to amend the development schedule and development agreement for 60 townhomes in the Madrone Plaza project to extend the deadline for obtaining building permits and commencing construction by one year and to modify commitments regarding below market rate units. The project site is approximately nine acres in size and is located at the southeast corner of Cochrane Rd. and Monterey Rd. in an R3 (PUD) zoning district.

SP Tolentino gave the staff report, noting this item was continued from the September 23 Commission meeting; the reason for the continuation was to ascertain that any policy decisions made by the City Council at their October 15 meeting regarding below market rate (BMR) units was incorporated into the development agreement. The request, SP Tolentino identified, was:

- a 12-month extension on the remaining 60 allocations
- modification to the Development Agreement to allow the 3-bedroom BMRs to be constructed as 4-bedroom units
- reduction of the BMR requirement as approved by the City Council

Commissioner Tanda arrived at 7:03 PM and was seated on the dais.

Noting that the applicant was anticipated to be at the meeting, but had not yet arrived, Vice-Chair Davenport opened, and then closed, the public hearing.

Commissioners discussed:

- staff recommendations on the potential BMR changes
- ‘walking’ through the three items requested and attempting consensus on each
- ‘issues’ involved with extensions (generally and specifically, e.g., ‘running into upcoming allocations for 2010 and 2011’)

Noting that applicant Scott Schilling had arrived, Vice-Chair Davenport reopened the public hearing.

Scott Schilling, 16060 Caputo Dr., #160, was present to address the request being

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presented. Mr. Schilling said that the Madrone Plaza project was the development for which the development agreement amendment was being sought. "We want another year as an extension plus modification to the BMR requirement to coincide with the Planning Commission and the City Council recommendations."

Commissioner Lyle noted that until Council action on the BMRs is finalized, the Planning Commission can't act on the BMR housing. Mr. Schilling said he was willing to ask for another continuation until the BMR decision could be made. "In fact, I'm Ok with continuing until all decisions have been made," he said.

Commissioner Lyle commented that this project and others have been experiencing 'substantial delay, with lots of units in various projects being bumped into 2010-11'. "The Planning Commission may want to reconsider the need look at project delays that are so lengthy," he said. Mr. Schilling responded, "I'm not worried about 2010-11, but about 2008-09 allocations."

Commissioner Lyle said, "There are a lot of units proposed in 2010-11. I'm talking about the automatic allocations for the on-going projects for 2010-11."

Mr. Schilling then addressed the next phase of the project which offers a 'different housing type' - - condominiums which are smaller than the town homes. "If there is any improvement in the market for that price range, those remaining 56 units will be needed."

With no others present to address to matter, the public hearing was closed.

Commissioner Escobar remarked he thought it a good plan to table the development agreement amendment until the City Council has made a decision on the BMRs.

COMMISSIONER MUELLER OFFERED A RESOLUTION APPROVING THE DEVELOPMENT SCHEDULE FOR APPLICATION MC-04-22: JARVIS – SOUTH VALLEY DEVELOPERS TO EXTEND THE DATE TO OBTAIN BUILDING PERMITS FOR 60 BUILDING ALLOTMENTS, NOTING THE INCLUSION OF THE FINDINGS AND CONDITIONS CONTAINED WITHIN THE RESOLUTION, COMMISSIONER TANDA PROVIDED THE SECOND. THE MOTION PASSED (6-0-0-1) WITH THE UNANIMOUS AFFIRMATIVE ACTION OF THE COMMISSIONERS PRESENT; KOEPP-BAKER WAS ABSENT.

Regarding clarification to staff in other matters pertaining to the development agreement amendment, the Commissioners discussed:

- need for explanation of the 4-bedroom versus 3-bedroom {staff recommends 4-bedroom low income units; median should stay as 3-bedroom} developer wants all BMRs as 4- bedroom units
- concerns with difficulty in filling 4-bedroom median BMRs in current economic times

PM Rowe explained that in the past, there have been some issues with builders not getting permission first to build 4-bedroom units which generally went for a higher price so when that was discovered, the developer had to sell the 4-bedroom units at a 3-bedroom price.

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Commissioner Mueller said it was his understanding that between now and June 30, 2010 all would be low-income, and he further stated he had not heard objection to the contrary. "It seems along ways out to be making a call regarding the 4-bedroom issue. We may want to review it in the first part of 2010. We may need to reserve the ability to look at median BMRs until we can have a review of the 2010 market conditions," he said. "I recall that we said in the recommendation to the City Council that if a project started between now and June 30 of 2010, there would be a 5% low-income BMR requirement. However, the City Council said that there would be no BMR requirement through April 30 of 2009, and then a 5% low-income BMR requirement from then until June 30, 2010. Now, Staff says 'no problem' with the low 4- bedroom and we do want to help developers get started with the 4-bedroom selling for a maximum amount."

Commissioner Lyle said he was in favor of moving forward with staff's recommendation {4-bedroom low-income BMRs; 3-bedroom median income BMRs }

Commissioner Mueller noted a concern: housing is having a hard time finding qualified buyers; we don't know that 4-bedroom might be good seller. Commissioner Mueller reiterated the need - in January 2010 - to revisit market conditions which may cause delay in looking at 4-bedroom median BMRs. "The question," he said, "is to accept a change now or postpone action until later? We can revisit the issue as we plan to revisit it anyway and by doing that, it gives developers better ability to disclose for funding when talking to their lenders."

Commissioner Mueller suggested recommending agreeing with the request for all 4-bedroom BMRs. Referencing the notion of review in 2010, Commissioner Escobar said he agreed with Commissioner Mueller's suggestions.

Commissioners then discussed:

- on the distributed color-coded map, 4 lows and 6 medians are referenced; some of the lows will become medians if there is 'commence construction' by April 30
- could end up with 4 BMRs or none depending on when permits pulled

Vice-Chair Davenport reopened the public hearing at a request from Commissioners who wished to speak to the applicant.

Mr. Schilling said, "From a project specific standpoint the goal of the City Council and the Planning Commission is to keep projects alive. Our goal: to put deals together in a difficult market. Mr. Schilling explained the elimination of the BMRs will allow them to lower their prices on the market rate units.

The public hearing was closed.

Vice-Chair Davenport conducted a straw vote regarding whether to concur with staff recommendation of continuing the Development Agreement Amendment to a later date:

- Commissioner Tanda favored making a decision in the future following more data gathering.
- other Commissioners spoke in agreement to the staff recommendation.
- Regarding the BMR bedroom count, Commissioners Mueller, Davenport, Escobar and Acevedo supported all 4-bedroom BMRs; Commissioner Lyle supported

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4-bedroom low-income BMRs and 3-bedroom median income BMRs (staff's recommendation); and Commission Tanda recommended a future decision

Responding to a question, PM Rowe said that staff had been given direction by the Council to look at each of the projects - not in terms of economics totally – but what is unique, what the project has to offer – how those factors affect the reduction of BMRs. “For example, Mr. Schilling is building in energy efficiency which will be of benefit to homebuyers. Some developers have single family detached units on smaller lots so they are more affordable, but not here as this is a townhouse/condo project. We must look at each individually. Staff is proposing to have the developer tell what the ‘public good’ is and staff can then make recommendation to the Planning Commission. The bottom line will be; what is the tradeoff for *not* doing BMRs,” PM Rowe advised.

Commissioner Escobar suggested the formation of a list of concepts of what would work. “It is difficult for the Planning Commission to come up with such a list,” he said. “A proposal from the developer to staff to the Planning Commission doesn’t give such an opportunity. Each project is unique to the project, that part of town, that neighborhood.”

PM Rowe said such a list could be considered once the application is filed by November. Staff will be getting most of them by that date; then staff will come to the Planning Commission with what is being proposed as ‘public benefits; and a list could be generated then for the Planning Commission.

Commissioner Mueller suggested the project could document public benefit: it could be price reduction, time of the finished project, build it green (BIG), etc. “Some projects could be cost effective to the public but not all. There will be a need for all to come back,” he said. “How can the announcement be in the development agreement?”

Commissioner Lyle observed he had interpreted last paragraph of the staff report as broader with a need to give staff direction for the new BMR regulations and said that he had four items for inclusion in discussion:

1) City Council’s April 30 date for ‘under construction’

Commissioner Lyle said there was a need for an additional date for such items as framing and having the foundation in (this came from the concern that a lot of permits may get pulled but projects not started to avoid BMRs) as he suggested a ‘perhaps 3 - 4 month leeway to begin some construction.

Commissioner Mueller said, “My initial reaction is: how much funding would an individual developer have to come up with?” [school impact fee]

Discussion followed with the idea of another date being set.

PM Rowe explained the 180 days requirements for building permits and the ability for extension requests if needed.

Commissioner Lyle reiterated his concern: physical construction gets started; it ‘gets going’ so having another date would not be a problem, and it would alleviate the potential

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problem of having developers avoiding the BMR(s) requirement.

Commissioner Mueller suggested staff could bring back the extra date after having the development community discuss the issue.

Commissioner Lyle reminded that some number of months are required for inspections.

2) 5% BMRs

The question as much as anything, Commissioner Lyle said, is: when, at what point are the developers actually doing the 5% BMRs requirement? as he provided an example of a development agreement for a 10 unit project, and the resultant number of required BMRs.

Discussion followed regarding incremental units built in phases.

SP Tolentino reminded that with the current development agreement, every year a set amount/number of BMRs are required. Commissioner Lyle responded, "Yes, but now – with the changes – we are in a 'grey area' and I think we need a different kind of language for the BMR trigger." Commissioner Mueller suggested staff review the development agreement for possible modification.

3) Housing Mitigation Fee

Regarding the housing mitigation fee, Commissioner Lyle asked: how is that computed? If we have projects that are started and have part of the mitigation required at 5%, and in the next phase, the developer can go to the next 5%, is there mitigation?

Staff advised there has been a proposed amount in the housing mitigation fee, with the allocations for 2011-12- paying a prorated amount.

Commissioner Mueller said it rolls over to the end so there only is need to look at projects completed by 2010. Commissioner Lyle argued that the fractional share of BMRs rolls to the next phase. Commissioner Mueller countered that the reduced fee only comes into play when the final units are built, and then, he said, "They would roll over at a higher rate."

PM Rowe advised that the fee amounts are not addressed in the development agreement – 'just what is in effect at the time'.

4) Staff to Monitor BMRs

"This is not necessarily in the development agreement," Commissioner Lyle observed. "But it is of concern: BMRs may be starting to disappear and staff has to be involved at the time of application to ensure BMR requirements can be met. Staff needs to ensure that when previously planned BMR lots are converted to market rate lots that there are sufficient BMR-sized lots remaining in the project to satisfy the BMR requirements for the remainder of the project."

Commissioner Mueller said, "They must meet the current precise plan, the units will not

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be changing.” Commissioner Lyle noted, “Oh, they could sell at median prices so there would not be the ability to put in BMRs.” Commissioner Mueller said: they must build according to the precise plan and not change the footprint.

Commissioner Lyle then argued, “The developer can choose when and where they start,”

They can use the same type of units but sell at a different price. Again, the question is: Does staff need to be concerned with how the units are built?”

Commissioner Lyle then turned to a ‘last concern’: “Should there be language in the development agreement to give the Planning Commission the ability to award allotments if projects are on schedule {and not award allotments if not on schedule}. This will be important next February when we have to address automatic allotments for on-going projects,” he said. “City Council has said there is concern that projects are extended so far out we will not likely be able to use, so we need language giving flexibility.”

Commissioner Mueller expressed disagreement saying the developer is considered on schedule if they are in compliance with their amended development schedules.

Commissioner Lyle said, “When the procedures were set up, the City did not assume multiple extensions. It was supposed to be difficult to get an extension for ELBA. First a developer got only one, but that has now increased significantly. I think the Planning Commission should have flexibility to use units as when/where they are needed and we should have that discussion before the development agreement.”

PM Rowe said staff would study the matter as a recommendation and also look at specific language for set asides. He continued by saying the applications had begun to come in so there would be need to have the discussion before the Commission began to give distributions in February. Such discussion would probably occur at the next meeting, he said.

Commissioner Mueller asked when the Commissioners would begin to see the development agreements? PM Rowe said, “I would like it to be in December, so probably January at the latest.

Commissioners Mueller/Escobar motioned to table the proposed development agreement amendment, continuing the request of modifying commitments regarding below market rate units to a future date. **THE MOTION PASSED (6-0-0-1) WITH THE FOLLOWING VOTE: AYES: ACEVEDO, DAVENPORT, ESCOBAR, LYLE, MUELLER, TANDA; NOES: NONE; ABSTAIN: NONE; ABSENT: KOEPP-BAKER.**

Disclosure: Commissioner Mueller informed he had visited the sites for items 3 and 4.

**2) DAA-03-09B/
DSA-07-07:
NATIVE
DANCER-QUAIL
MEADOWS**

A request to amend the development agreement and development schedule for a six-unit, custom lot development to allow up to an 18-month extension of time to obtain building permits and commence construction on the final two units in the project. The project is located at the southwest corner of Santa Teresa Blvd. and Native Dancer Dr. in an RE (40,000) zoning district.

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SP Tolentino presented the staff report, noting this was the 'same applicant' with this being a six unit project. "The only thing missing is for him to pull permits. This is a subdivision of custom lots, and the applicant says he needs additional time to work on selling the lots," SP Tolentino advised.

Vice-Chair Davenport opened the public hearing.

Mr. Schilling, the applicant, stood at the podium to explain, "This project is several years old now. The infrastructure improvements have been in for several years and we have sold four of the six lots. The two remaining lots have been on the multiple listing service about two years. We still anticipate these two being sold as custom lots, with custom homes to be built at the location. We are asking for time to try and market the two remaining lots."

Commissioner Mueller asked the applicant if at any point he would consider going away from custom sales and build the units himself?

Mr. Schilling responded, "If the market came back soon, there may be one lot where that could happen. We are requesting the time, so we can hopefully see what happens. There is a development agreement and we would have to check with staff to see what we can actually do; but that would be a good possibility on at least one of the lots."

With no others present to speak to the matter, the public hearing was closed.

Responding to the question by Commissioner Mueller, SP Tolentino said, "Yes, the developer could build the remaining two units."

COMMISSIONER MUELLER OFFERED A RESOLUTION APPROVING AN AMENDMENT TO THE DEVELOPMENT SCHEDULE FOR APPLICATION MMP-03-01: NATIVE DANCER-QUAIL MEADOWS TO EXTEND THE DATE TO SUBMIT AND OBTAIN BUILDING PERMITS FOR TWO, FY 2005-06 ALLOTMENTS, INCLUSIVE OF THE FINDINGS AND CONDITIONS THEREIN. COMMISSIONER ESCOBAR SECONDED THE MOTION.

As to the development schedule, Commissioner Lyle noted that a minor modification to Exhibit A should be addressed: (building permits FY 2005-06/2 remaining custom units) *December 30* and reminding of the City furlough at that time with the Planning Department being closed. SP Tolentino indicated that December 17 would be an appropriate date. Commissioners Mueller/Escobar (maker and second of the motion) indicated approval with the date change to December 17.

THE MOTION CARRIED (6-0-0-1) WITH THE FOLLOWING VOTE: AYES: ACEVEDO, DAVENPORT, ESCOBAR, LYLE, MUELLER, TANDA; NOES: NONE; ABSTAIN: NONE; ABSENT: KOEPP-BAKER.

COMMISSIONER MUELLER OFFERED A RESOLUTION RECOMMENDING APPROVAL OF DEVELOPMENT AGREEMENT AMENDMENT APPLICATION, DAA-03-09B: NATIVE DANCER-QUAIL MEADOWS TO ALLOW FOR AN 18-MONTH EXTENSION OF TIME TO COMMENCE CONSTRUCTION ON TWO, FY 2005-06 BUILDING ALLOTMENTS WITH THE

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DATE CHANGE TO DECEMBER 17 AND INCLUSIVE OF THE FINDINGS AND CONDITIONS THEREIN. COMMISSIONER ESCOBAR SECONDED THE MOTION, WHICH PASSED (6-0-0-1) WITH THE FOLLOWING VOTE: AYES: ACEVEDO, DAVENPORT, ESCOBAR, LYLE, MUELLER, TANDA; NOES: NONE; ABSTAIN: NONE; ABSENT: KOEPP-BAKER.

**3) ZA-07-10/
DA-07-04\
DS-08-04:
GINGER-
MURRAY**

A request for approval of a precise development plan, development agreement and development schedule for a 7-unit single-family residential project with some attached units on an .827-acre site located along the south side of Peebles Ave. between Rose Lane and Taylor Ave. The site is zoned R-1/7000 Single-Family Medium Density Residential. A Mitigated Negative Declaration is proposed.

AP Phillips gave the staff report, noting the background of this project which was awarded allotments in an RDCS competition, which included the five single-family units, with one corner duet. AP Phillips also reminded that the Single-Family Medium land use designation limits the amount of attached homes for projects. She further advised that since March, 2005, the applicant had obtained ownership of an adjacent corner property with an existing house; however, some of the allocations for 2007-08 had been lost due to inactivity. A lot line adjustment and an administrative subdivision have been approved to take advantage of the one-unit exemption. A Mitigated Negative Declaration and a Mitigation Monitoring and Reporting Program had also been completed for perusal by the Commissioners.

AP Phillips advised that Staff has concerns as to whether findings can be made for the current proposal due to the applicant's letter of justification, wherein the developer supports the level of design and affordable housing as reasons for approving the Planned Development (PD). However, the lots are made to look as if they are created around the design (footprint) of the homes, rather than designing the houses to meet the requirements of a standard residential lot. Other concerns were the elimination of lot configuration of the neighboring lots to the east and elimination of the duplex (duet housing). Consequently, she said, staff does not support the PD zoning request as presented. AP Phillips requested the Commissioners to discuss the matter, and then continue the Zoning Amendment and Development Agreement applications to the January 27, 2009 meeting in order for staff to complete discussions with the applicant.

Responding to a question from Commissioner Lyle, AP Phillips provided clarification as to the location of the three proposed units which are scheduled for construction at a later time. She further advised that the existing home is scheduled to be demolished and two duets would be built on that site.

Discussion followed regarding:

- the possible need for reapplication to RDCS
- if a duplex is proposed, the need to eliminate one lot
- placement of a duplex on the corner lot to meet the requirements of the General Plan
- exempt units to the plan

Vice-Chair Davenport opened the public hearing.

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Michael Davis, D & Z Design Associates, Santa Teresa Blvd, #220, Gilroy, was present to represent the applicant as the architect.

Mr. Davis explained the 'creative lot configuration' which resulted from 'issues with Rose Lane'. Mr. Davis reminded that Rose Lane had been intended by the City to be straight, but one owner (to the west of the subject property) did not want to cooperate, so Rose Lane curved instead; and that, he said, caused the need for creativeness.

Mr. Davis spoke to the Commissioners regarding:

- the duplex unit on parcels A and B
- setbacks; lots 1 – 4 have over 20' setbacks
- one lot has a 20' rear setback with excess setback at the side
- project will complete all curb and gutter requirements on Ginger and Rose and provide handicapped access on Peebles
- overall project enhanced by new design
- with changes, these lots can be sold at lower rates
- landowner/developer has agreed to double in-lieu fees instead of TDCs (Transfer of Development Credits)

Commissioner Mueller pointed out that Staff has said the design cannot be built according to the General Plan.

Mr. Davis referenced the letter from Engineer Bill McClintock:

Mr. Murray has committed to purchase double TDCs which entitle him to add a unit to his development plan (density bonus), this necessitating the need for a PUD zoning. While prior approval of the project to receive the TDC has not been obtained, why can't the Planning Commission use the PUD zoning approval to make the necessary finding to use this project as a recipient site?

PM Rowe said the maximum density issue for this project had not been brought to Staff previously. "Staff needs to look at it, as this current request exceeds density ability," PM Rowe advised.

With no further persons in attendance indicating a wish to speak to the matter, the public hearing was closed.

Commissioner Acevedo asked for clarification: The applicant indicated Staff recommendation for the project layout, but Staff has said they do not recommend it.

AP Phillips explained that previous designs had shown awkward squared-off rear yards. It was then decided that the bend design would work better at retaining 'reasonable back yards', even if it was still an odd design. AP Phillips said, "Staff did formerly give a recommendation to accept, but with more review we have determined it to be 'not favorable'.

PM Rowe said, "Typically with lot layout we look at underlying zoning: Width and depth of the lot together with the design of the footprint. But this current design creates unusable space. With the road shifting over, the corner lot becomes exempt from being buildable. There is now less area for five lots, so there are big questions of lot density. If this

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becomes a recipient site, the land use is transferred. With further investigation we have had concerns raised, and now we know we need further information.”

Commissioner Acevedo continued, “I’ve heard the clarification, and it seems that all knew the problems were happening. We need to be concerned that Staff gave direction to the developer so they came up with this design.”

Commissioner Lyle interjected, “Staff is going to come back and report to the Planning Commission, then we will address the findings.”

Commissioner Mueller said, “I think we need review of the project to see if this could be a recipient site and look at concerns about TDCs.”

Commissioner Lyle said, “Typically, this is a ‘General Plan versus what the site can actually hold’. If we approve anything more than three allotments, then it becomes entitlements and all Measures, e.g., C and F, passed previously come into play.”

PM Rowe advised of the precedence for approving an overall development plan, e.g., Mission Ranch. Commissioner Mueller commented, “Even if we were doing a Planned Development with a precise plan, we have to limit the project to the existing lots. We cannot create any more lots than there are allocations.”

SCE Creer joined the meeting to address a myriad of questions from the Commissioners regarding streets in the area, particularly Rose Lane. He was also asked to speak to the influence of other developments in the area on the streets.

COMMISSIONERS MUELLER/ESCOBAR MOTIONED TO CONTINUE THE MATTER OF ZA-07-10/DA-07-04/DS-08-04: GINGER-MURRAY, TO THE PLANNING COMMISSION MEETING OF JANUARY 27, 2009;

Under discussion, Commissioner Tanda asked the applicant if he was aware of the need to meet requirements by January 5, 2009? Speaking from the audience, the applicant responded that he was aware of the revisions and updates.

Commissioner Mueller requested that Staff revisit the street alignment and other identified issues for reporting to the Commissioners before the January 27, 2009 Commission meeting.

THE MOTION PASSED (6-0-0-1) WITH THE UNANIMOUS AFFIRMATIVE VOTE OF ALL COMMISSIONERS PRESENT; KOEPP-BAKER WAS ABSENT.

4) DAA-05-08C/ DSA 07-12A: CHURCH- ALCINI

The applicant is requesting approval to amend the development agreement and development schedule to allow for a 12-month extension of time for the FY 2006-07 building allotments for the overall 14-unit multi-family residential development located in the northwest quadrant of the intersection of Church St. and Bisceglia Ave.

PM Rowe presented the staff report, providing an overview of the request. He advised that this request is similar to others recently received, and was based on the economics of a down turned real estate market. PM Rowe also noted the need for several date changes to

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the proposed resolutions. The requested changes, PM Rowe said, were documented in the letter provided by the applicant, as well as a letter from the applicant's banker.

Calling attention to Exhibit A, Commissioner Lyle said the excess language in the first paragraph could easily be deleted. Others agreed, and PM Rowe said it would be taken care of.

Vice-Chair Davenport opened the public hearing.

Cliff Johnson, 7888 Wren Ave, #136, Gilroy (Old Orchard Company), spoke to the Commissioners, offering to answer questions.

Commissioner Mueller said, "We've heard from a lot of people who are having trouble getting financing, but your banker speaks in glowing terms." Mr. Johnson said, "The letter is complementary, isn't it? We did tie up the financing but didn't build. That commitment letter expires December 15 and we don't know what the lender will do then. If we had money today, we could not start a new phase. This is the worst economic crises I've ever seen. We are in a 38 unit project in Gilroy. We opened 18 units a year and a half ago, but the buyers just are not there. It borders on economic suicide to start a project now."

Mr. Johnson went on to explain that even though he had filed a map in late June 2007, with the pads and grading being completed prior to October, and finally commencing to winterize the site, he had been 'caught up in a flood plan review which ultimately involved the Santa Clara County Water District. "I think that plan review will be released for us to get a permit in late spring or early summer next year. Request year hopefully economic get better

Commissioner Mueller asked if the developer would start less than 14 units? Mr. Johnson said that if the financing letter of commitment stands, the bank would probably only allow a lesser number: about probably seven to begin and seven later.

The financial letter of commitment was discussed at length.

Commissioner Lyle led discussion of the changes to BMRs for Mr. Johnson's enlightenment.

PM Rowe cautioned the project was coming up on the expiration date for 'commence construction'.

With no others present indicating a wish to speak to the matter, the public hearing was closed.

SCE Creer was asked to explain the impacts of the flood plan review. SCE Creer said, "The review is associated with trying to resolve an area problem instead of each property owner wrestle with a portion. It is probably easier to wrestle globally then consider payment of shares," SCE Creer said. He also informed that: "Unbeknownst to Public Works, this parcel is connected to another drainage line to Church Street; we are working on that."

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The public hearing was closed as there were no others present to address the matter.

COMMISSIONER MUELLER OFFERED A RESOLUTION APPROVING AN AMENDED DEVELOPMENT SCHEDULE FOR APPLICATION, MC-04-15: CHURCH –ALCINI, WITH THE FINDINGS AND CONDITIONS LISTED THEREIN AND WITH THE AMENDMENTS NOTED IN DISCUSSION: DATE CHANGES; DELETION OF LANGUAGE IN THE FIRST PARAGRAPH.

COMMISSIONER ESCOBAR SECONDED THE MOTION, WHICH PASSED (6-0-0-1) WITH THE FOLLOWING VOTE: AYES: ACEVEDO, DAVENPORT, ESCOBAR, LYLE, MUELLER, TANDA; NOES: NONE; ABSTAIN: NONE; ABSENT: KOEPP-BAKER.

COMMISSIONER MUELLER OFFERED A RESOLUTION, INCLUSIVE OF THE FINDINGS AND CONDITIONS WITHIN, RECOMMENDING APPROVAL TO AMEND THE DEVELOPMENT AGREEMENT FOR APPLICATION, DAA-05-08C: CHURCH-ALCINI, TO ALLOW FOR A 12-MONTH EXTENSION OF THE COMMENCEMENT OF CONSTRUCTION DATE FOR 14 BUILDING ALLOCATIONS GRANTED FOR FY 2006-07 FOR MC-04-15: CHURCH-ALCINI, (AND DIRECTING STAFF TO BE EXPLICIT IN TERMS OF REASONS WHY, TOGETHER WITH LANGUAGE EXPLAINING THE IMPACT OF THE REQUIRED EXTENDED FLOOD PLAN REVIEW). COMMISSIONER ESCOBAR SECONDED THE MOTION, WHICH PASSED (6-0-0-1), WITH THE FOLLOWING VOTE: AYES: ACEVEDO, DAVENPORT, ESCOBAR, LYLE, MUELLER, TANDA; NOES: NONE; ABSTAIN: NONE; ABSENT: KOEPP-BAKER.

ANNOUNCEMENTS: PM Rowe reported on the renovation of the old library next door to a development center: One-Stop-Shop for Development Programs is nearing completion, with moving in planned for during the City's furlough and anticipated opening in early January 2009. Employees currently with the individual departments of Building, Planning, Public Works Land Use Engineering, Environmental Programs, and Economic Development will now be part of the larger effort to provide enhanced customer service of one team, he said. Commissioners will be invited to tour the offices at a planned date.

PM Rowe also explained the new change in procedure for sending questions relating to Commission business to staff with a more general sharing of information with other Commissioners for greater benefit and understanding. Considerable discussion ensued regarding the matter with several thoughts of the matter being shared. Commissioner Tanda strongly suggested the Planning Commission follow example set by City Council if disclosure might be needed. Transparency of information and clear communication was stressed.

Vice-Chair Davenport stated that he had run unopposed for a seat on the Gavilan Community Board, and therefore anticipated his last attendance would be the November 11, 2008 Planning Commission meeting. Congratulations were extended on his willingness to assume community responsibilities.

PLANNING COMMISSION MEETING MINUTES

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**CITY COUNCIL
REPORTS:**

PM Rowe reported that the City Council had accepted the vacancy report as sent forward by the Planning Commission with the October rate being set at 1.55%.

PM Rowe also noted that one of projects for the upcoming RDCS competition was a proposed 99-unit rental housing development on Monterey Road.

ADJOURNMENT: Noting that there was no further business for the Planning Commission at this meeting, Vice-Chair Davenport adjourned the meeting at 9:00 pm.

MINUTES RECORDED AND PREPARED BY:

JUDI H. JOHNSON, Minutes Clerk